

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA (ALEXANDRIA)

In Re:) Case No. 23-10919-BFK
BF MANAGEMENT LLC,) Alexandria, Virginia
Debtor.)
-----) September 12, 2023
-----) 11:48 a.m.
-----)

TRANSCRIPT OF HEARING ON

(34) U.S. TRUSTEE'S MOTION TO DISMISS OR CONVERT CASE TO
CHAPTER 7; MICHAEL ROSENGART STATEMENT IN SUPPORT #38
BEFORE THE HONORABLE BRIAN F. KENNEY
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor: JOHN P. FOREST, II, ESQ.
MICHAEL T. FREEMAN, AUST
FOREST LAW FIRM
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For the Office of the U.S.
Trustee: JACK I. FRANKEL, ESQ.
U.S. DEPARTMENT OF JUSTICE
1725 Duke Street
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Alexandria, VA 22314

Also Present: Raymond Rahbar
Debtor Designee

Borzou Azabdaftari
Creditor

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Raymond Rahbar - Direct

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1 Q. Did it have a cash flow statement?

2 A. It did not.

3 Q. What is the debtor's plan of reorganization? What is
4 the -- how do you expect to reorganize? When I say "you", the
5 debtor.

6 A. Sure, I understand. So if -- and I apologize to the Court.
7 I need to take a little bit of a step back.

8 All of our files were deleted and destroyed at one point,
9 and we suspected we knew it was Michael Rosengart, but we
10 didn't -- we didn't have any proof. We have since learned that
11 not only did Michael do it, and IP addresses now confirm it
12 that we have from Verizon, but he had written out a twelve-page
13 memo with screenshots detailing how he got into our system and
14 how he deleted everything and how he kept a copy for himself.
15 Those same files, they denied, denied, denied that they'd ever
16 deleted, but he'd put it into a memo with screenshots,
17 inexplicably stupid. And Mr. Scher wanted an opinion from
18 somebody else, and he sent it to a partner at DLA Piper, Max
19 Masinter.

20 Max Masinter and I, we went to law school together. So
21 guess what Max did. He goes, I got no lawyer-client privilege.
22 I'm sending this to Raymond. That's the only reason I have the
23 evidence. I want to be very clear. They lied. They
24 obfuscated. They did everything. I --

25 THE COURT: So Mr. Frankel was asking you how you're

Raymond Rahbar - Direct

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1 going to reorganize.

2 A. So and the reason I bring it to that is they kept a copy of
3 the documents, and they have all of our files. If we can get
4 those files back, it's not that hard to re -- we have to chavve
5 (sic) some stuff. I mean, the pandemic world kind of changed
6 everything. We have to change some stuff, but then we would
7 like to go back out and license to other gyms. And we have
8 Tempo Club in Clarendon. It's a smaller club. I would love to
9 do a much bigger club, but it's still -- you know, you have to
10 start somewhere, and then that's how you start expanding again.

11 But without the assets, it's actually very difficult. And
12 you have to have the assets. And by assets, I don't
13 necessarily mean cash because I can get a credit card. I can
14 do loans. There's a hundred other ways to finance operations.
15 And I've done -- I've raised probably north of a hundred
16 million dollars in the last ten years.

17 Raising the capital is not the hard part. But if you don't
18 have a product to sell that you spent, by the way, nine years
19 developing, it is very hard to sell something. So first, we
20 need the property back, then the rest kind of take cares --
21 takes care of itself.

22 Q. Now, you said you have a very valuable customer list and
23 mailing list?

24 A. Yes.

25 Q. And what was the value that you ascribed to that?

Raymond Rahbar - Direct

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1 A. Those were third-party valued at ten million dollars.

2 Q. Well, I thought on your schedules, you put down seventeen
3 million dollars?

4 A. So sorry, I think we're talking slightly different --
5 specifically just the email was ten. And then the other
6 software is seven.

7 Q. And you're telling me that all these -- everything was
8 stolen, correct?

9 A. Correct.

10 Q. Did you have -- did the debtor have any insurance against
11 the property being stolen?

12 A. No. Well, sorry. We have general liability insurance. I
13 kind of thought that might apply. The insurance company
14 obviously very much disagreed because this was a computer
15 infraction.

16 I forgot the name of the insurance, but apparently you have
17 to have a specific computer-hacking type of insurance that's
18 separate from your general liability insurance. Because he was
19 a former employee, our employee insurance also did not cover it
20 because we had already fired him by months at that point. So
21 we had insurances in place, just not a specific computer
22 insurance.

23 Q. So correct me if I'm wrong. So again, you had an assets
24 worth approximately seventeen million dollars, but you had no
25 insurance; is that the bottom line?